

REMARKS

This Amendment, submitted in response to the Office Action dated October 12, 2006, is believed to be fully responsive to each point of rejection raised therein. Accordingly, favorable reconsideration on the merits is respectfully requested.

Claims 1-15 are all the claims pending in the application. Claims 14 and 15 have been newly added. Applicant submits that the subject matter of claims 14 and 15 are not disclosed in the cited art and therefore should be deemed allowable. Further, the subject matter of claims 14 and 15 are supported in, for example, Applicant's Fig. 1 and page 5, lines 5-10 of the Applicant's specification.

I. Claim Rejections under 35 U.S.C. § 112

Claim 7 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 7 has been amended as indicated above. Consequently, Applicant requests that the rejection of claim 7 under 35 U.S.C. § 112, second paragraph be withdrawn.

II. Claim Rejections under 35 U.S.C. § 101

Claim 7 stands rejected under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter. Claim 7 has been amended as indicated above. Consequently, Applicant requests that the rejection of claim 7 under 35 U.S.C. § 101 be withdrawn.

III. Claim Rejections under 35 U.S.C. § 102

Claims 1, 2, 5-13 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Chari et al. (U.S. Patent No. 6,704,301).

Claim 1

Claim 1 recites “A method of selecting of a path to establish a communication link between a first node and one of a plurality of access points of a wireless cellular telecommunication system, the wireless cellular telecommunication system having second nodes being adapted to serve as relay nodes...”

On page 14 of the Office Action, the Examiner asserts that server 510 of Chari teaches the claimed access point. Further, the Examiner asserts that a level two client teaches the first node and the level one client teaches the second node. However, there is no teaching or suggestion of establishing a communication link between a first node and one of a plurality of access points. As discussed on col. 4, lines 33-36, only a single server (access point as cited by the Examiner) is disclosed in Chari. Therefore, it is evident that Chari is not concerned with selecting a path from a first node to one of a plurality of access nodes.

Claim 1 further recites “receiving of data from at least one of the second nodes, the data being indicative of a first quality measure of a first path from the one of the second nodes to its access point...”

On page 15 of the Office Action, the Examiner asserts that the level one client serves as an intervene node of the selected path from the server to the level two client. The Examiner further asserts that the selected path teaches the claimed “first path” and the unselected path

teaches the claimed “second path”. The Examiner further states that the level two client receives data (Traffic Monitoring Code (TMC) or number of hops) indicative of a first quality measure “latency” of a corresponding path, citing col. 5, lines 7-15, and 35-48 and col. 6, lines 6-10 in support.

However, the aspects of Chari cited by the Examiner disclose the receipt of a beacon by level one clients. The client can then rebroadcast the beacon, containing the address of the client and its TMC data, to the server. If a level two client receives beacon rebroadcasts from two or more level one clients, then it will select from among the proffered routes.

Claim 1 further recites “comparing of a **second quality measure** of a second path from the first node to its access point with the first quality measure...” On page 16 of the Office Action, the Examiner asserts that in the process of path selection, the level two client compared the TMC data received from the selected level one client with the second data indicative (TMC) of a second quality measure of the second path from the level two client to the server. However, Chari appears to at most disclose comparing the routes from two or more level one clients (second node as cited by the Examiner) for selection by the level two client. Chari does not teach or suggest comparing a second quality measure of a second path from the first node (level two client as cited by the Examiner) to its access point (server) with the first quality measure of first path from one of the second nodes (level one client as cited by the Examiner) to its access point (server). In particular, there would be no reason for Chari to compare a path of a level two client to an access server with a path of a level one client to an access server, since the selection of a path from the level one client to the access server would not result in the creation of a link

between the first node (level two client as cited by the Examiner) to one of a plurality of access points, as desired in an exemplary embodiment of the Applicant's invention.

Claim 1 further recites "selecting of the first path [path from the second node to its access point] to replace the second path [path from a first node to its access point] if the first quality measure is superior to the second quality measure." However, as discussed above, Chari discloses a level two client (first node as cited by the Examiner) selecting between two proffered routes of level ones clients (second node as cited by the Examiner). There is no teaching or suggestion that a path for a first node (level two client) to an access point (server) of the first node is selected over a path for a second node (level one client) to an access point (server) of the second node. Further, there would be no reason why one would select between a path from the level two client to the access server and a path from a level one client to the access server in Chari. Any suggestion otherwise would clearly be a result of impermissible hindsight.

For at least the above reasons, claim 1 and its dependent claims should be deemed allowable. To the extent claims 7, 8 and 10 recites similar elements, claims 7, 8 and 10 and their dependent claims should be deemed allowable for at least the same reasons.

IV. Claim Rejections under 35 U.S.C. § 103

Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Chari et al in view of Serceki (U.S. Publication No. 2004-0102192). Claim 3 should be deemed allowable by virtue of its dependency to claim 1 for at least the reason set forth above. Moreover, Serceki does not cure the deficiencies of Chari.

V. New Claims

Applicant has added claims 14 and 15 to provide a more varied scope of protection. Claims 14 and 15 should be deemed allowable by virtue for their dependency to claim 1 for at least the reasons set forth above. Moreover, the art cited by the Examiner does not teach the elements of claims 14 and 15.

VI. Allowable Subject Matter

The Examiner has indicated that claim 4 contains allowable subject matter and would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. At the present time, Applicant has not rewritten claim 4 in independent form since Applicant believes claim 4 will be deemed allowable, without amendment, by virtue of its dependency to claim 1 for at least the reasons set forth above.

VII. Conclusion


In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111
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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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